

29th March 1955]

APPENDIX.

[Vide item V on page 591 supra.]

THE MADRAS COURT-FEES AND SUITS VALUATION
BILL, 1954.

COMPOSITION OF THE SELECT COMMITTEE.

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 3 Sri K. P. KUTTIKRISHNAN NAIR.
- 4 Sri K. PARTHASARATHY.
- 5 Sri K. VENKATARAMANA GOWDA.
- 6 Sri N. GOPALA MENON.
- 7 Sri P. SELVARAJ.
- 8 Sri B. VAIKUNTA BALIGA.
- 9 Sri V. R. NAGARAJAN.
- 10 Sri KUNHI MOHAMED SHAFEE.
11. Sri M. NARAYANA KURUP.
- 12 Sri S. RAMALINGAM.
- 13 Sri P. K. GOPALAKRISHNAN.
- 14 Sri P. RANGASWAMI REDDIAR.
- 15 Sri E. L. RAGHAVA MUDALIAR.

Invitees—Lawyer Members of the Legislative Council.

- 1 Sri K. BALASUBRAMANIA AYYAR.
- 2 Sri K. BASHYAM.
- 3 Sri V. GURUNANDAN ROW.
- 4 Sri B. V. SUBRAMANYAM.
- 5 Dr. V. K. JOHN.
- 6 Sri A. GAJAPATHY NAYAGAR.

Secretariat.

Sri R. V. KRISHNA AYYAR, *Secretary.*

Sri T. HANUMANTHAPPA, *Joint Secretary*

[29th March 1955]

REPORT OF THE SELECT COMMITTEE ON THE MADRAS
COURT-FEES AND SUITS VALUATION BILL, 1954
(L.A. BILL No. 25 OF 1954).

To

THE HONOURABLE LEGISLATIVE ASSEMBLY,
MADRAS.

The Select Committee appointed to consider the Madras Court Fees and Suits Valuation Bill, 1954, has the honour to make the following report.

2. The Bill was published in the *Fort St. George Gazette* Extraordinary on the 10th May 1954.

3. The Committee was appointed on the 17th May 1954.

4. The Committee met at Fort St. George on the 8th June 1954, 2nd and 3rd August 1954, in the Ministers' Room, Government Estate, Mount Road, on the 10th and 14th August 1954 and again at Fort St. George on the 29th November 1954.

5. At its first meeting the Select Committee resolved to call for written memoranda from all Bar Associations in the State, from its law officers and from other individuals. The Select Committee has scrutinized all the memoranda received. It also invited a few of the lawyer members of the Legislative Council to be present at its meetings and advise.

6. The Committee has subjected the clauses of the Bill and the various Articles in the Schedules to a detailed scrutiny and as a result of such scrutiny has made various changes in them.

7. But, before referring to the changes, it may be pointed out that the Select Committee considered the preliminary questions, (1) whether court-fees should be strictly proportionate to the time and trouble taken in respect of suits or proceedings and (2) whether the old practice in the High Court of levying fixed fees on plaints and further fees on subsequent applications and at the time of subsequent hearings should be adopted. It thinks that the levying of fees according to the time taken in the trial of the suit or proceeding would seriously affect poor litigants coming up for justice before courts, that it should also depend on the value of the property in dispute in the litigation and that the old practice in the High Court above referred to is not suitable to the conditions of modern litigation. It has therefore not made any fundamental change in the principle on which court-fees are now levied in the State. The Government have assured the Committee that they have no intention of making any profit out of litigation and that even after the proposals contained in the Bill come into effect, the courts would continue to work at a deficit.

8. The Committee also carefully considered the question of the method by which the market value of land should be ascertained for the purposes of this Bill and discussed various alternative

29th March 1955]

suggestions in this behalf. It has resolved that in the more common kind of suits such as those falling under clauses 25 (a), 25 (b), 27 (a), 29, 30, 37, 38, 45 and 48 the market value of land on which an assessment is payable to Government should be adopted at thirty times such assessment and that other lands should be valued according to their actual sale value in the market. Clause 8 (new clause 7) has accordingly been entirely redrafted to carry out this intention.

9. It has also discussed the proper rate of ad valorem court-fee payable under Schedule I of the Bill upon plaints and has decided that it should be a uniform rate of $7\frac{1}{2}$ per cent of the value of the subject-matter.

10. The Committee thinks that the provisions in Chapter V of the Bill as introduced are likely to lead to increased congestion of work in the Superior Courts including the High Court. It has therefore made many amendments in that Chapter which are intended to maintain as far as possible the present position, viz., that the value of a suit for purposes of court-fee and for purposes of jurisdiction should be the same.

11. Some of the other important changes which the Committee has made are mentioned below :—

Clause 5.

This clause had provided that fractional amounts of court-fees payable under this Act should be rounded off to the next higher quarter rupee. The Committee thinks that this provision should be deleted.

Clause 13 (new clause 12).

In sub-clause (1), the Committee has made it clear that the preliminary decision of the Court regarding the amount leviable on a plaint before its registration should rest entirely on the allegations and materials furnished in the plaint.

Clause 24 (new clause 23).

This clause relates to suits for maintenance and annuities. Item (b) as introduced had provided that in a suit for enhancement or reduction of maintenance, the court-fee should be computed on ten times the amount by which the annual maintenance is sought to be enhanced or reduced. The Committee has deleted the words "ten times" with the result that the court-fee in such suits will be calculated only on the amount by which the annual maintenance is sought to be enhanced or reduced.

In item (c) of the clause which relates to annuities and other periodical payments, the amount on which the court-fee is leviable has been reduced from ten times the amount claimed per year to five times such amount.

[29th March 1955]

Clause 27 (new clause 26).

This clause relates to adoption suits and as originally drafted the fee on such suits was to be computed on one-half of the market value of the property involved in or affected by the relief. The Committee considers that such a provision would lead to great inconvenience and has decided upon levying a fixed fee as follows :—

Rs. 50 in a District Munsif's Court;

Rs. 100 in a Sub-Court or District Court or the City Civil Court, Madras, if the market value of the property involved in or affected by the relief does not exceed Rs. 10,000 and Rs. 500 if it exceeds Rs. 10,000;

Rs. 500 in the High Court.

Clause 34 (new clause 33).

Sub-clause (2) of this clause as introduced had provided that if, in a suit relating to a mortgage, a subsequent mortgagee in his written statement claimed payment to him out of the amount realized by sale, of the amount due to him on his mortgage, he should pay the proper court-fee on the amount claimed by him in his written statement.

The Committee considers that a subsequent mortgagee should not be asked to pay any court-fee at the time of his written statement, but that he should be asked to pay court-fee only on such amount as may actually be claimed by him, after the sale had taken place. As this is already provided in sub-clause (3), the Committee decided to delete the words "or subsequent" in sub-clause (2).

Sub-clause (8) of this clause relates to court-fee payable on redemption suits. After carefully considering all alternatives, the Committee resolved by a majority that the following sub-clause should be substituted for the existing one, namely :—

"In a suit against a mortgagee for redemption of a mortgage, fee shall be computed on the amount due on the mortgage as stated in the plaint or one-fourth of the principal amount expressed to be secured by the instrument of mortgage whichever is higher, provided that where the amount due on the mortgage is found to be more than the amount on which fee has been paid by the plaintiff, no decree shall be passed until the deficit fee is paid."

Clause 36 (new clause 35).

This clause relates to suits for accounts, and as drafted contained no provision for the levying of a court-fee on any amount found payable to a defendant on taking accounts. It has resolved to add a new sub-clause making such provision.

29th March 1955]

Clause 38 (new clause 37).

This clause relates to partition suits. Regarding sub-clause (3) of this clause, the Committee thinks it necessary to make a distinction between defendants who are excluded from joint possession and defendants who are in joint possession. If excluded, the amount of court-fee required from the defendant should be half the amount payable on his share under sub-clause (1) but if in joint possession, it should be half that payable under sub-clause (2).

Clause 78 (new clause 66).

This clause refers to refund in cases of delay in representation of plaint, etc. The Committee considers that in regard to cases, where a memorandum of appeal has been rejected on the ground of delay in representation, half the fee should be refunded and has added a new sub-clause to that effect.

Clause 84 (new clause 72).

This clause refers to exemption of certain documents from court-fees. The Committee has included among such exempted documents, a memorandum of appearance filed by an advocate in a criminal court on behalf of an accused person.

Schedule I.

Article 3.—In item (a) of this Article, the Committee has made the court-fee payable on a petition under section 53 or 54 of the Provincial Insolvency Act, subject to a maximum of Rs. 500.

Schedule II.

Article 9.—The Committee considers that the court-fee to be affixed on a copy need not have any reference to the number of words in the copy and has therefore deleted the words “for every 360 words or fraction of 360 words” at the end. It has prescribed fixed fee of 12 annas on all copies falling under this Article.

In item (m) of Article 11, the Committee considers it desirable to differentiate between applications where the value of the subject-matter of the award does not exceed Rs. 5,000, those where such value exceeds Rs. 5,000 but does not exceed Rs. 10,000 and those where the subject-matter of the award exceeds Rs. 10,000, and it has resolved to fix a court-fee of Rs. 25, Rs. 100 and Rs. 250 on them respectively.

In many cases, the Select Committee has reduced the court-fees fixed in the original Bill, as for example in clauses 26, 28, 32, 38 (new clauses 25, 27, 31, 37) and in particular, item (s) of the Article 11 of Schedule II where for petitions to the High Court under Article 226 of the Constitution of India the amount has been reduced from Rs. 100 to Rs. 25.

[29th March 1955]

12. The Select Committee has made other changes also but it is not considered necessary to refer to them. All the changes made by the Select Committee are indicated in the annexed Bill.

13. The Committee considers that the changes made by it are of such important character as to require the re-publication^a of the Bill.

14. Some of the members have given dissenting minutes which are appended.

C. SUBRAMANIAM,
Chairman.

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS,
6th December 1954.



^a Republished in the *Fort St. George Gazette*, dated 22nd December 1954.

29th March 1955]

PROCEEDINGS OF THE SELECT COMMITTEE ON THE
MADRAS COURT-FEES AND SUITS VALUATION BILL,
1954 (L.A. BILL No. 25 OF 1954).

(As approved by the Chairman)

Tuesday, the 8th June 1954.

The Select Committee appointed to consider the Madras Court-Fees and Suits Valuation Bill, 1954, met in the Committee Room, Fort St. George, Madras, at 11-30 a.m. on Tuesday, the 8th June 1954. The following members were present:—

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 Sri K. P. KUTTIKRISHNAN NAIR.
- 3 Sri K. PARTHASARATHY.
- 4 Sri K. VENKATARAMANA GOWDA.
- 5 Sri P. SELVARAJ.
- 6 Sri B. VAIKUNTA BALIGA.
- 7 Sri V. R. NAGARAJAN.
- 8 Sri KUNHI MOHAMED SHAFEE.
- 9 Sri M. NARAYANA KURUP.
- 10 Sri S. RAMALINGAM.
- 11 Sri P. K. GOPALAKRISHNAN.
- 12 Sri P. RANGASWAMI REDDIAR.
- 13 Sri E. L. RAGHAVA MUDALIAR.

The Secretary to the Law Department and the Joint Secretary to the State Legislature were also present.

The Select Committee decided to call for written memoranda from all Bar Associations in the State, Advocate-General, Government Pleaders and other individuals, to be submitted before 15th July 1954. The Bar Associations would be requested to send 20 copies of their memoranda which would be circulated to the members of the Select Committee as and when they were received.

The Committee also decided that its members might send in their own memoranda either in the form of amendments or otherwise which would be circulated to all the members.

On the suggestion of members, the Chairman agreed that the Special Officer in the Home Department in charge of this Bill, in consultation with the Law Secretary, would submit to the members of the Committee a synopsis of the memoranda received from Bar Associations, individuals, etc.

[29th March 1955]

The Committee also decided that some of the lawyer members of the Legislative Council might be invited to attend the future sittings of the Committee.

The Committee agreed tentatively to meet again on the 26th July 1954 and then adjourned.

Monday, the 2nd August 1954.

The Select Committee met in the Council Chamber, Fort St. George, at 11 a.m. on Monday, the 2nd August 1954. The following members were present :—

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 3 Sri K. P. KUTTIKRISHNAN NAIR.
- 4 Sri N. GOPALA MENON.
- 5 Sri K. VENKATARAMANA GOWDA.
- 6 Sri P. SELVARAJ.
- 7 Sri V. R. NAGARAJAN.
- 8 Sri KUNHI MOHAMED SHAFEE.
- 9 Sri S. RAMALINGAM.
- 10 Sri P. RANGASWAMI REDDIAR.
- 11 Sri E. L. RAGHAVA MUDALIAR.

The following members of the Legislative Council were also present by invitation :—

- 1 Sri K. BALASUBRAMANYA AYYAR.
- 2 Sri K. BHASHYAM.
- 3 Sri V. GURUNANDAN ROW.
- 4 Sri A. GAJAPATHY NAYAGAR.

The Secretary of the Legislature and the Special Officer for the revision of the Court Fees Act, Home Department, were present.

The preliminary question was considered whether in the matter of levying court-fees, the principle should be that the fee should be proportionate to the time and trouble taken in respect of the particular proceeding in question or whether the court-fee can be permitted to augment the general revenue. After discussion the Committee resolved that the old practice in the High Court of levying a fixed fee on complaints and subsequent fees on applications and at the time of hearings was unsuitable as such a system would seriously affect poor litigants coming up before courts with small claims. In this connexion, however, the Hon. Chairman said that the Government were not in favour of making money from

29th March 1955]

litigation and pointed out that the Secretariat had worked out figures of receipts from and expenditure on courts which showed that the courts were now working at a deficit and would, even if the proposals contained in the Bill came into effect, continue to work at a deficit. He promised to furnish details of the figures at a later stage.

The Committee then considered the Bill clause by clause.

CHAPTER II.

Clause 4.

The Committee considered the point whether in sub-clause (ii) the words 'public officer' should remain. After some discussion it was decided that the words might remain.

The question was raised whether the word 'Judge' in the proviso to sub-clause (ii) would include a magistrate under the Code of Criminal Procedure, or an officer presiding over a Revenue Court.

The Chairman said that the point would be clarified and that an amendment would be brought up *if found necessary*.

Clause 5.

This clause relates to rounding off of fractions of court-fee, to the next higher quarter rupee. The Committee resolved to drop this provision.

Clause 6.

The clause was passed.

Clause 7.

The Committee resolved to omit Explanation (1) and to renumber Explanation (2) as Explanation (1).

The clause was passed with the above amendment.

Clause 8.

The clause was passed.

Clause 9.

Sri V. R. Nagarajan moved the following amendment:—

“No fee shall be chargeable on a written statement pleading a set off. But any counter-claim therein praying for a decree in favour of the defendant shall be liable to payment of court-fee only on the amount in excess of the plaintiff's claim, if any.”

The Hon. Finance Minister pointed out that in the words of Order VIII, Rule 6 of the Civil Procedure Code, a written statement

[29th March 1955]

claiming a set off or making a counter-claim was really "a plaint in a cross suit" and that there was no reason why it should be exempt from court-fee. The amendment was negatived.

The clause was passed.

Clause 10.

The clause was passed.

CHAPTER III.

Clause 11.

The clause was passed.

Clause 12.

The Committee considered the question whether the Taxing Officer's assessment of the court-fee should be final, but held that there was advantage in its being subject to review by the court. The clause was passed.

Clause 13.

The Committee considered that at the preliminary stage, that is, before the registration of the plaint, the decision of the court regarding the amount of court-fee leviable on the plaint should only rest on the allegations and materials furnished in the plaint, and that in sub-clause (1) this should be made clear. The words 'on the allegations and materials furnished in the plaint' were therefore inserted between the word 'decide' and the words 'the proper fee payable thereon' in sub-clause (1).

The clause as amended was passed.

Clause 14.

The consideration of the clause was postponed.

Clauses 15 to 17.

The clauses were passed.

Clause 18.

The consideration of the clause was postponed.

Clauses 19 to 21.

The clauses were passed.

The Committee adjourned to meet again at 10 a.m. on Tuesday, the 3rd August 1954.

29th March 1955]

Tuesday, the 3rd August 1954.

The Select Committee met in the Council Chamber, Fort St. George, at 10 a.m. on Tuesday, the 3rd August 1954. The following members were present :—

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 3 Sri K. P. KUTTIKRISHNAN NAIR.
- 4 Sri K. VENKATARAMANA GOWDA.
- 5 Sri N. GOPALA MENON.
- 6 Sri P. SELVARAJ.
- 7 Sri B. VAIKUNTA BALIGA.
8. Sri V. R. NAGARAJAN.
- 9 Sri KUNHI MOHAMED SHAFEE.
- 10 Sri M. NARAYANA KURUP.
- 11 Sri S. RAMALINGAM.
- 12 Sri P. RANGASWAMI REDDIAR.
- 13 Sri E. L. RAGHAVA MUDALIAR.

The following members of the Legislative Council were also present by invitation :—

- 1 Sri K. BALASUBRAMANYA AYYAR.
- 2 Sri V. GURUNANDAN ROW.
- 3 Sri A. GAJAPATHY NAYAGAR.

The Secretary to the Legislature and the Special Officer for the revision of the Court Fees Act, Home Department, were present.

The Committee continued the consideration of the Bill clause by clause.

The Committee re-opened clause 4 and decided that for the words 'presiding Judge', the word 'Court' might be substituted.

CHAPTER IV.

Clauses 22 and 23.

The clauses were passed.

[29th March 1955]

Clause 24.

Sri V. R. Nagarajan moved the following amendment :—

“ In a suit for enhancement or reduction of maintenance, court-fee shall be payable on five times the amount by which the annual maintenance is sought to be enhanced or reduced.”

The amendment was not pressed.

The Committee considered that in sub-clause (b) the levying of a court-fee at ten times the amount of the annual maintenance was excessive and, therefore, resolved to delete the words ‘ ten times ’ in that sub-clause.

The Committee also decided that in sub-clause (c) for the words ‘ ten times ’, the words ‘ five times ’ be substituted. It also decided to substitute the word ‘ five ’ for the word ‘ ten ’ in the proviso.

*Clause 25.**Sub-clause (2) (b).*

The Committee decided that the words ‘ or on rupees five hundred whichever is higher ’ should be omitted.

Clause 26.

The Committee decided that in sub-clause (c) for the words ‘ one thousand ’ the words ‘ five hundred ’ be substituted and in sub-clause (d) for the words ‘ five hundred ’, the words ‘ four hundred ’ be substituted.

Clause 27.

Sri V. R. Nagarajan moved the following amendment :—

“ *Substitute the following for the existing clause :—*

‘ In a suit for declaration in regard to the validity or invalidity of an adoption or the factum of an adoption a fixed court-fee as rated below shall be payable :—

(a) Rs. 35 in a District Munsif's Court.

(b) Rs. 50 in a Sub-Court or District Court or City Civil Court, Madras, if the market value of the property involved in or affected by the relief is Rs. 5,000 or below that sum.

(c) Rs. 100 in all other cases.’ ”

This was accepted subject to the following alterations, viz., that in a District Munsif's Court the fee should be Rs. 50 and that in a Sub-Court or District Court or City Civil Court, it should be Rs. 500 on amounts up to Rs. 10,000 and Rs. 1,000 on amounts above Rs. 10,000.

29th March 1955]

Clause 28.

The Committee decided as follows :—

In sub-clause (b) for the words ' one thousand ' *substitute* the words ' five hundred '.

In sub-clause (c) for the words ' five hundred ' *substitute* the words ' four hundred '.

Clauses 29 to 31.

The clauses were passed.

Clause 32.

The Committee decided that for the words ' five hundred ' the words ' four hundred ' be substituted.

Clause 33.

The clause was passed.

Clause 34.

Sub-clause (2).

Sri M. Narayana Kurup suggested that the subsequent mortgage should not be asked to pay any court-fee at the time of his written statement though he might be asked to pay a court-fee on such amount as might actually be claimed by him after the sale had taken place. This is already provided for in sub-clause (3) of this Bill. The words ' or subsequent ' were omitted in sub-clause (2).

Sub-clause (8).

The Committee thought that the court-fee should be computed not on the principal amount of the mortgage but on the amount due under the mortgage. The sub-clause was amended accordingly.

Clause 35.

The clause was passed.

Clause 36.

In sub-clause (1) the Committee resolved to omit the word ' approximately ' and add the words ' by the plaintiff '. In sub-clause (2) also the Committee decided to omit the word ' approximately '.

As at present worded, sub-clause (2) contains no provision in regard to any court-fee leviable on any amount found payable to the defendant on taking accounts between the parties. The Committee resolved that a new sub-clause should be added providing for the same.

[29th March 1955]

Clause 37.

The clause was passed.

Clause 38.

The Committee decided as follows :—

Sub-clause (2).

In item (i) for ' thirty-five ' substitute ' thirty '.

In item (ii) for ' thirty-five ' substitute ' thirty ', and for the words ' value of the subject-matter ' substitute the words ' value of the plaintiff's share '. For the words ' one hundred ' substitute the words ' two hundred '.

In item (iii) for the words ' two hundred and twenty-five ', substitute the words ' three hundred '.

Sub-clause (3).

The Committee decided that a distinction should be made between defendants who had been excluded from joint possession and defendants who were in joint possession. If excluded, the amount of court-fee required from the plaintiff should be as in sub-clause (2) but if in joint possession the court-fee should be only half of what the defendant would have to pay under sub-clause (2) if he were a plaintiff.

Clauses 39 and 40.

The clauses were passed.

Clause 41.

The Committee decided that in the Marginal Note the words ' or other documents ' be added.

Clauses 42 and 43.

The clauses were passed.

Clause 44.

Sri P. Rangaswami Reddiar suggested the words ' payable for the year next before the date of presenting the plaint ' must be made clear. The clause was passed without amendment.

Clauses 45 to 50.

The clauses were passed.

Clause 51.

The Committee decided as follows :—

In items (ii) and (iii) for the word " thirty-five " substitute the word ' thirty '.

29th March 1955]

In item (iii) for '100' substitute '200'.

In item (iv) for the words 'two hundred and twenty-five' substitute the words 'three hundred'.

Clauses 52 and 53.

The clauses were passed.

At this stage, the Committee took up consideration of the postponed clauses 14 and 18. They were also passed. But the Chairman suggested that the words '*mutatis mutandis*' might be inserted between the words 'apply' and 'to' in clause 18. This was agreed to.

The Committee then adjourned for lunch.

(After lunch)

CHAPTER V.

Clause 54.

The clause was passed.

Clause 55.

The words 'before issues are framed on the pleas taken by such defendant in the written statement, or' were omitted as very often the question of value itself might have been already framed as an issue.

Clauses 56 and 57.

The clauses were passed.

Clause 58.

Consistently with the amendment made in sub-clause (8) of clause 34, it was decided that in a mortgage suit falling under section 34, the value shall be the amount due on the mortgage.

Clauses 59 to 65.

The clauses were passed.

Clause 66.

The clause was passed subject to a scrutiny of the necessity for the words "or in the lower appellate Court in the memorandum of appeal to that Court", sub-clause (1) (a).

CHAPTER VI.

Clauses 67 to 77.

The clauses were passed.

The Committee however thought that the necessity for the explanation to sub-clause (1) of clause 68 required further examination.

[29th March 1955]

CHAPTER VII.

Clause 78.

The Committee thought that in regard to cases where a memorandum of appeal was rejected on the ground of delay in presentation, half the fee should be refunded. It was therefore decided to add a proviso to that effect.

Clauses 79 and 80.

The clauses were passed.

Clause 81.

Sri E. L. Raghava Mudaliar suggested that refund should be ordered even in cases where a decree was passed in terms of a compromise entered into between the parties even before any evidence had been recorded on the merits of the claim. The Chairman pointed out that as execution proceedings could be taken on such a decree, the refund would be unjustifiable.

On the same ground, a suggestion for the refund of half the court-fee in suits in which *ex parte* decrees were passed was also negatived.

Clauses 82 and 83.

The clauses were passed.

Clause 84.

Sri P. Rangaswami Reddiar proposed that the memorandum of appearance by an Advocate in a criminal court on behalf of an accused person should be included in the exemptions. This was accepted.

Clause 85.

The clause was passed.

CHAPTER VIII.

All the clauses from 86 to 99 were passed.

SCHEDULE I.

Schedule I was then taken up.

Under Article 1, Sri S. Ramalingam suggested that the ad valorem court-fee might be reduced from $7\frac{1}{2}$ per cent to $6\frac{1}{4}$ per cent. After some discussion this was not pressed.

Articles 1 and 2 were then passed.

29th March 1955]

Article 3.

Under Article 3 (a), Sri B. Vaikunta Baliga wanted a fixed fee and not an ad valorem fee for petitions under section 53 or 54 of the Provincial Insolvency Act, 1920. This was not agreed to but the Committee resolved to add the words " subject to a maximum fee of Rs. 500 " at the end of the third column.

Under sub-clause (b) also the same words were added at the end of the third column.

At this stage the Committee adjourned to meet again at 11 a.m. on 10th August 1954 in the Ministers' Room in the Government Estate, Mount Road.

Tuesday, the 10th August 1954.

The Select Committee appointed to consider the Madras Court Fees and Suits Valuation Bill, 1954, met in the Ministers' Room, Government Estate, Mount Road, Madras, at 11 a.m. on Tuesday, the 10th August 1954. The following members were present :—

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 3 Sri K. P. KUTTIKRISHNAN NAIR.
- 4 Sri K. PARTHASARATHI.
- 5 Sri K. VENKATARAMANA GOWDA.
- 6 Sri N. GOPALA MENON.
- 7 Sri V. VAIKUNTA BALIGA.
- 8 Sri V. R. NAGARAJAN.
- 9 Sri M. NARAYANA KURUP.
- 10 Sri S. RAMALINGAM.
- 11 Sri P. K. GOPALAKRISHNAN.
- 12 Sri P. RANGASWAMI REDDIAR.

The following members of the Legislative Council were also present by invitation :—

- 1 Sri K. BALASUBRAMANYA AYYAR.
- 2 Sri K. BHASHYAM.
- 3 Sri V. GURUNANDAN ROW.
- 4 Dr. V. K. JOHN.
- 5 Sri A. GAJAPATHI NAYAGAR.

The Secretary to the State Legislature and the Deputy Secretary to the Law Department were also present.

[29th March 1955]

The question of the necessity for clause 14 was again considered. The Hon. Chairman pointed out that the clause was necessary as a provision for cases referred to in clauses 25 (2), 28 and 49. Clause 14 was therefore allowed to stand.

The necessity for the explanation in clause 68 was then considered, and it was allowed to remain as there were said to exist some rulings of the High Court which stated that the member of a Joint Hindu family could apply for letters of administration.

Clause 37 was also reconsidered. It was decided that no change was necessary.

The Committee agreed to reopen sub-clause (8) of clause 34 which related to redemption suits. After discussion, the Committee resolved by a majority that sub-clause (8) should be redrafted as follows:—

“ In a suit against a mortgagee for redemption of a mortgage, fee shall be computed on the amount due on the mortgage as stated in the plaint or twenty-five per cent of the principal amount expressed to be secured by the instrument of mortgage whichever is higher :

Provided that in cases where the fee has been paid on a certain amount as due on the mortgage, if on enquiry the Court finds that larger amount is due on the mortgage, additional court-fee shall be levied on the excess in accordance with this Act.”

The Schedules were then taken up.

Article 1 of Schedule I was reopened for consideration. The question whether there should be a uniform rate of court-fee or whether there should be a slab system of court-fee with a regressive rate was put to the vote and it was decided by a majority that the rate of court-fee should be uniform. Sri S. Ramalingam pressed that the rate should be only $6\frac{1}{4}$ per cent and not $7\frac{1}{2}$ per cent. The decision on this question was postponed until a decision was arrived at on the question of valuation according to the market rates.

The other articles in Schedules I to III were approved subject to the following remarks:—

SCHEDULE II.

Article 9.

The words “ For every 360 words or fraction of 360 words ” occurring in column 2 were deleted.

For the words “ ten annas ” occurring in column 3 thereof, the words “ twelve annas ” were substituted.

Article 10.

Sri S. Ramalingam moved that item (a) be deleted. The amendment was not accepted.

29th March 1955]

Article 11.

Sri S. Ramalingam moved that for the words "four annas" occurring in column 3 of item (a), the words "two annas" be substituted. The amendment was not accepted.

The Committee resolved that the present item (i) of Article 11 should be renumbered as (ii) and that the following should be inserted as (i) of that item :—

- " (1) Original petition to a District Munsif's Court against the decision of village court. One rupee."

In sub-item (ii) of item (m), the following words were added at the end and before the words "one hundred rupees" :—

" (a) where the value of the subject-matter of the award does not exceed Rs. 10,000 "

and the following new sub-item was also added :—

- " (b) where the value of the subject-matter of the award exceeds Rs. 10,000 ... Two hundred and fifty rupees."

In Article 11 (n) a similar change was made, that is, sub-items (i) and (ii) were redrafted as follows :—

- " (i) When presented to a District Munsif's Court or when presented to the City Civil Court or sub-court of Ootacamund or of Cochin in a case where the value of the subject-matter does not exceed Rs. 5,000. Fifteen rupees.

- (ii) when presented to the City Civil Court, Madras, a sub-court or District Court or the High Court—

- (a) where the value of the subject-matter of the award exceeds Rs. 5,000 but does not exceed Rs. 10,000. One hundred rupees.

- (b) in any other case ... Two hundred and fifty rupees."

In item (s), for the words 'one hundred rupees' occurring in column 3, the words 'twenty-five rupees' were substituted.

The Committee also resolved that for the sake of uniformity wherever the words 'petitions' and 'applications' occur, these be changed into 'petition' and 'application.'

The Committee then adjourned to meet at 3 p.m. on Saturday, the 14th August 1954, at the Ministers' Room, Government Estate, Madras.

[29th March 1955]

Saturday, the 14th August 1954.

The Select Committee appointed to consider the Madras Court Fees and Suits Valuation Bill, 1954, met in the Ministers' Room, Government Estate, Madras, at 3 p.m. on Saturday, the 14th August 1954. The following members were present:—

- 1 The Hon. Sri C. SUBRAMANIAM (*Chairman*).
- 2 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 3 Sri K. P. KUTTIKRISHNAN NAIR.
- 4 Sri K. PARTHASARATHI.
- 5 Sri K. VENKATARAMANA GOWDA.
- 6 Sri N. GOPALA MENON.
- 7 Sri P. SELVARAJ.
- 8 Sri B. VAIKUNTA BALIGA.
- 9 Sri V. R. NAGARAJAN.
- 10 Sri M. NARAYANA KURUP.
- 11 Sri S. RAMALINGAM.
- 12 Sri P. RANGASWAMI REDDIAR.
- 13 Sri E. L. RAGHAVA MUDALIAR.

The following members of Legislative Council were also present by invitation:—

- 1 Sri K. BALASUBRAMANYA AYYAR.
- 2 Sri K. BHASHYAM.
- 3 Sri V. GURUNANDAN ROW.
- 4 Sri B. V. SUBRAMANYAM.

The Secretary to the State Legislature and the Special Officer, Home Department, were also present.

The Committee discussed the question of the method by which the market value of land should be ascertained for the purposes of this Bill. Various suggestions were made and discussed and eventually the Committee agreed that, subject to further examination, the market value of land on which assessment was payable to Government should be adopted at thirty times of such assessment and that other lands should be valued according to their value in the market.

The Committee resolved that the *ad valorem* court-fee payable upon suits should be $7\frac{1}{2}$ per cent of the value for purposes of court-fee.

29th March 1955]

The Committee resolved that the draft report and the Bill as amended by the Committee so far should be circulated to the Members before the date of next meeting which was to be fixed by the Chairman.

The Committee then adjourned.

Monday, the 29th November 1954.

The Select Committee met in the Committee Room, Fort St. George, at 11 a.m. on Monday, the 29th November 1954. All the members except Sri V. R. Nagarajan and Sri P. Rangaswami Reddiar were present.

The following lawyer-Members of the Legislative Council who had been invited were also present :—

1 Sri K. BALASUBRAMANYA AYYAR.

2 Sri V. GURUNANDAN ROW.

The Secretary to the Legislature, the Secretary to Government, Law Department, and the Special Officer for the revision of the Court Fees Act, Home Department, were present.

The Bill as amended by the Select Committee up to now had been printed and circulated to the Members. The following amendments to the Bill as so revised, were accepted by the Committee :—

Clause 12.

1. In clause 12—

(i) in sub-clause (1), after the words “ on the materials and allegations contained in the plaint ”, *insert* “ and on the materials contained in the statement, if any, filed under section 10 ”;

(ii) *omit* the Explanation occurring at the end of sub-clause (2) and *insert* the same Explanation at the end of the clause; and in the Explanation as so inserted, *for* the words “ The expression ”, *substitute* “ In this section, the expression ”.

Clause 39.

2. In clause 39 (2), *for* the words “ be found due ” *substitute* “ is found due ”.

Clause 42.

3. In clause 42 (e), *for* the word “ as ”, *substitute* “ has ”.

Clause 43.

4. In clause 43—

(a) in sub-clause (1)—

(i) *omit* the words “ fee shall be levied on the amount of rent for the immovable property to which the suit relates, payable for the year next before the date of presenting the plaint ” and *insert* the same words after sub-clause (e) as a separate paragraph.

[29th March 1955]

(ii) after the words " landlord and tenant ", insert " namely :—";

(b) in sub-clause (3), for the words " amount claimed ", substitute " amount of the arrears for which the distraint has been made or the sale is proposed to be held ".

Clause 49.

5. In clause 49, for the words " one-half the value ", substitute " one-half of the value ".

Clause 51.

6. In clause 51, for the words " according to the difference ", substitute " on the difference ".

Clause 52.

7. In clause 52, in Explanation (3), for the words " till date ", substitute " till the date ".

Clause 70 (2).

8. In clause 70 (2), for the words " the court, or the court or the officer ", substitute " the Court, or the Subordinate Court or the officer ".

Clause 71 (3).

9. In clause 71 (3), for the words " deficient fee ", substitute " deficit fee ".

Clause 73 (2).

10. In clause 73 (2), for the words " fee of that ", substitute " of the fee ".

Clause 95.

11. For clause 95, substitute the following:—

" 95. *Repeal of Central Act IV of 1877.*—The Presidency Magistrate (Court-Fees) Act, 1877 (Central Act IV of 1877), in so far as it applies to the State of Madras, is hereby repealed."

SCHEDULE II.

Article 1.

12. In Schedule II—

(i) in the entries relating to Article 1, omit the words and figures " the Malabar Marriage Act, 1896, or ";

Article 8.

(ii) in the entries relating to Article 8, for the words " to suit ", substitute " to a suit ";

29th March 1955]

Article 16.

(iii) in the entries relating to Article 16, for the words " one rupee eight annas ", substitute " one rupee and eight annas ".

The clauses of the revised Bill as thus amended were taken up for consideration again.

Sri Narayana Kurup suggested that in sub-clause (2) of clause 7, the clauses relating to the market value of land had not been exhaustively stated and he suggested that the following clauses should, for instance, be also included in that sub-clause :—

Clauses 37, 38, 40, 41, 42 and 58.

After careful consideration, the Committee decided to include only clauses 37, 38 and 48 in that sub-clause (2) of clause 7.

Clause 32.

The Committee decided to include the words " or on the market value whichever is less " at the end of the clause.

CHAPTER V.

The Hon. the Law Minister pointed out that, in view of the proposed amendment to section 11 of the Code of Civil Procedure (the section relating to *res judicata*) which the Government are contemplating, the provisions of Chapter V of the Bill relating to the valuation of suits for the purpose of determining jurisdiction of courts, required substantial modification and that, as they stood, the provisions in Chapter V were likely to result in creating an increased congestion of work in the higher courts including the High Court. After discussion the Committee approved of the following amendments in Chapter V :—

(1) In clause 12 of the Bill as renumbered, the following sub-clause be added :—

" (5) All questions as to value for the purpose of determining the jurisdiction of courts arising on the written statement of a defendant shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim."

(2) At the end of clause 23 of the Bill as renumbered, the following proviso be added :—

" Provided further that, a suit for enhancement or reduction of maintenance falling under clause (b) shall be instituted in a Court which will have jurisdiction to receive a suit for maintenance at the rate which is sought to be enhanced or reduced."

(3) At the end of clause 28 as renumbered and before the Explanation, the following proviso be added :—

" Provided that where the property does not have a market value, value for the purpose of determining the jurisdiction of courts shall be such amount as the plaintiff shall state in the plaint."

[29th March 1955]

(4) The following be added as sub-clause (3) to clause 48 as renumbered :—

“ Value for the purpose of determining the jurisdiction of courts shall be the amount of the debt, or the sum of money or the market value of other property to which the suit relates.”

(5) The following clauses as renumbered be deleted :—

Clauses 53, 54, 55, 56, 57, 58, 59, 60, 61 and 62.

(6) Clause 63 as renumbered be modified as follows :—

“ *Suits not otherwise provided for.*—(1) In a suit as to whose value for the purpose of determining the jurisdiction of courts, specific provision is not otherwise made in this Act or in any other law, value for that purpose and value for the purpose of computing the fee payable under this Act shall be the same.

(2) In a suit where fee is payable under this Act at a fixed rate, the value for the purpose of determining the jurisdiction of courts shall be such amount as the plaintiff shall state in the plaint.”

(7) The clauses of the Bill be renumbered and necessary alterations made in clauses 67, 69, 70, 71, 73, 74 and 93 and in Schedule III.

4. The Committee approved the other provisions of the Bill as reprinted.

5. The Chairman was authorized to sign the report on behalf of the Committee.

The Committee decided that, in view of the importance of the Bill and the changes made in it, it should be republished. It also decided that Dissenting Minutes, if any, sent up to 11 a.m. on the 6th of December might be accepted and printed along with the Report.

GOVERNMENT ESTATE,
MOUNT ROAD, MADRAS-2,
6th December 1954.

R. V. KRISHNA AYYAR,
Secretary to the State Legislature.